



Solana Beach School District

- ☐ Policy
- ☐ Regulation
- ☐ Exhibit
- ☒ Board Bylaw

BB 9270

Number

Type Board Bylaws
Sub-Type N/A
Subject **CONFLICT OF INTEREST**
Department Superintendent

Adopted 00/00/00
Revised 06/05/04
Next Review 00/00/00
Annual Review ☒
Prefix Label BB

Cross Reference

Incompatible Activities

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district.
Government Code 1126

Conflict of Interest Code

The District's conflict of interest code shall be comprised of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Designated Positions/Disclosure Categories

Persons occupying the following positions are designated employees in Category 1:

- A. Board members
- B. Superintendent
- C. Assistant Superintendents

Persons occupying the following positions are designated employees in Category 2:

- D. Director of Maintenance, Operations, and Transportation
- E. Director of Food Service
- F. Director of Information Systems
- G. Director of Pupil Services
- H. Director of Fiscal Services
- I. Principals

The Board shall review the District's Conflict of Interest Code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. *Government Code 87306.5*

When a change in the District's Conflict of Interest Code is necessitated by changed circumstances such as the creation of new positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. *Government Code 87306*

Upon receiving the statements of employees designated in Category 1, the District shall make and retain copies and shall forward the originals to the code reviewing body. Statements for all other designated employees shall be retained by the District.

When reviewing and preparing Conflict of Interest Codes, the District shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views.
Government Code 87311

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. *2 CCR 18700*

Statements of Economic Interests submitted to the District by designated employees in accordance with the Conflict of Interest Code shall be available for public inspection and reproduction. *Government Code 81008*

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as board members or designated employees. *Government Code 1090*

A board member shall not be considered to be financially interested in a contract if his/her interest is including, but not limited to, any of the following: *Government Code 1091.5*

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the District if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the Board or to which the Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that the interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. *Government Code 1091.5*

A board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a board meeting and noted in the official board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. *Government Code 1091*

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. *Education Code 35107*

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. *Government Code 89503*

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for board members and designated employees. *Government Code 89506*

Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law *Government Code 89501, 89502*

Designated employees shall not accept any honorarium which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. *Government Code 89502*

The term "honorarium" does not include: *Government Code 89501*

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference

GOVERNMENT CODE

82019: Definition of "designated employee"

82028: Definition of "gifts"

87300-87313: Conflict of interest code

87500: Statements of economic interests

89501-89503: Honoraria and gifts

CSBA Notes

CSBA Reviews: 7/01, 11/03

District Reviews: 4/00, 5/04

Comments



Solana Beach School District

COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS

BB 9270

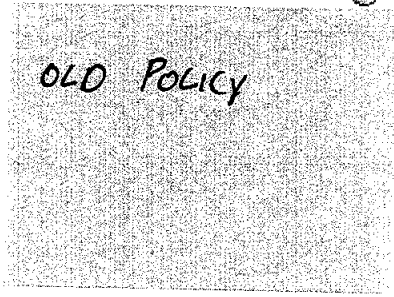
☐ Policy
☐ Regulation
☐ Exhibit
☒ Board Bylaw

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Number

THOMAS J PASTUSZKA
CLERK OF THE BOARD
OF SUPERVISORS

Adopted 00/00/00
Revised 06/05/04
Next Review 00/00/00
Annual Review ☐
Prefix Label BB

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Department Superintendent



Cross Reference

Incompatible Activities

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district.
Government Code 1126

Conflict of Interest Code

~~Designated employees of the district, including board members, shall adhere to the financial disclosure requirements of the District's Conflict of Interest Code adopted pursuant to the provisions of Government Code 87300.~~ The District's conflict of interest code shall be comprised of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Designated Positions/Disclosure Categories

~~Employees holding the following positions shall report their financial interests:~~

Persons occupying the following positions are designated employees in Category 1:

- A. Board members
- B. Superintendent
- C. Assistant Superintendents

Persons occupying the following positions are designated employees in Category 2:

- D. Director of Maintenance, Operations, and Transportation
- E. Director of Food Service
- F. Director of Information Systems
- G. Director of Pupil Services
- H. Director of Fiscal Services
- I. Principals

The Board shall review the District's Conflict of Interest Code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. *Government Code 87306.5*

When a change in the District's Conflict of Interest Code is necessitated by changed circumstances such as the creation of new positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. *Government Code 87306*

Upon receiving the statements of employees designated in Category 1, the District shall make and retain copies and shall forward the originals to the code reviewing body. Statements for all other designated employees shall be retained by the District.

When reviewing and preparing Conflict of Interest Codes, the District shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. *Government Code 87311*

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required.
2 CCR 18700

Statements of Economic Interests submitted to the District by designated employees in accordance with the Conflict of Interest Code shall be available for public inspection and reproduction. *Government Code 81008*

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as board members or designated employees. *Government Code 1090*

A board member shall not be considered to be financially interested in a contract if his/her interest is including, but not limited to, any of the following: *Government Code 1091.5*

1. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the District if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the Board or to which the Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. ~~That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee,~~ provided that the **such** interest is disclosed to the Board at the time of consideration of the contract, and provided further that the interest is noted in its official records
8. That of an attorney of the contracting party of that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. *Government Code 1091.5*

A board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a board meeting and noted in the official

board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. *Government Code 1091*

~~If a board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed and made part of the board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board.~~

~~A board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. *Education Code 35107*~~

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. *Education Code 35107*

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Gifts

~~Board members and designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on his/her Statement of Economic Interests.~~ **may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.**

The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. *Government Code 89503*

Gifts of travel and related lodging and subsistence shall be subject to the ~~above limitations~~ **prevailing gift limitation** except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for board members and designated employees. *Government Code 89506*

Honoraria

~~Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, if the employee would be required to report the receipt of income or gifts from that source on his/her Statement of Economic Interests.~~ **in accordance with law** *Government Code 89501, 89502*

Designated employees shall not accept any honorarium which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. *Government Code 89502*

The term "honorarium" does not include: *Government Code 89501*

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes